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10/751,742

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Michael K. Au

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EXAMINER

DUNHAM, JASON B

ART UNIT

PAPER NUMBER

3625

MAIL DATE

DELIVERY MODE

09/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/751,742

Applicant(s)

AU ET AL.

Examiner

Jason B. Dunham

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 7/13/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement (IDS) submitted on July 13, 2007 was filed after the mailing date of the first action on the merits on March 19, 2007. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner. The examiner notes that reference US 2002/0056226 has been considered but no relevance to the claimed invention is seen in Production Of Sod Using a Soil-Less Sand Based Root Zone Medium to Egan.

Response to Amendment

Applicant amended claims 1,7,13, and 19 and canceled claims 21-25 in the response filed June 18, 2007 to the office action dated March 19, 2007. Claims 1-20 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 6-9, 12-15, and 18-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Haynes (US 2006/0218052 A1).

Referring to claim 1. Haynes discloses a method of creating a marketplace with hosted supplier stores comprising the steps of:

- Providing tools for creating and managing a hosted supplier store to each of a plurality of suppliers through a commerce site, said tools including a catalog facility for uploading and managing a supplier catalog for said hosted supplier store (Haynes: abstract and figure 1);
- Receiving a plurality of supplier catalogs from said plurality of suppliers (Haynes: paragraph 18);
- Aggregating said plurality of supplier catalogs into an aggregated catalog (Haynes: paragraph 18); and
- Providing a buyer with access to said aggregated catalog and separate access to at least one of said plurality of supplier catalogs on said commerce site (Haynes: paragraphs 17-18 and paragraph 47). See at least, "Such an interface permits a buyer to search a catalogue of products and/or services of a particular supplier."

Referring to claim 2. Haynes further discloses a method including:

- Providing a supplier hub catalog topology (Haynes: figure 1 and paragraph 89); and
- Wherein said step of aggregating includes aggregating said supplier catalogs according to said supplier hub catalog topology (Haynes: paragraph 89).

Referring to claim 3. Haynes further discloses a method wherein:

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- Said supplier catalogs include shared marketplace products and supplier specific products (Haynes: paragraphs 89-90);
- Said buyer access said aggregated catalog through one of said hosted supplier stores owned by one of said suppliers (Haynes: paragraph 48); and
- Said step of aggregating includes aggregating said shared marketplace products from all of said suppliers with said supplier specific products from said one of said suppliers (Haynes: abstract and paragraph 18).

Referring to claim 6. Haynes further discloses a method including the steps of:

- Providing said buyer with trading mechanisms for generating orders for items within said aggregated catalog (Haynes: paragraph 48);
- Developing requests for quotations for made-to-order items (Haynes: paragraph 59); and
- Negotiating contracts between said suppliers and said buyers (Haynes: paragraph 113). The examiner notes that an agreement is the same as a contract between suppliers and buyers.

Referring to claims 7-9, 12-15, and 18-19. Claims 7-9, 12-15, and 18-19 are rejected under the same rationale set forth above. Hayes discloses systems and mediums containing instructions with limitations similar to those cited in the rejection of claims 1-3 and 6.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-5, 10-11, 16-17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haynes (US 2006/0218052 A1) in view of Flaxer (US 2003/0033218 A1)

Referring to claims 4-5. Haynes discloses all of the above as noted under the 102(e) rejection but does not expressly disclose a method including entitlement information for buyers including pricing. Flaxer discloses a method for defining customizable subsets of a catalog including:

- Receiving contract data from one of said suppliers, said contract data including entitlement information for said buyer in relation to a product (Flaxer: abstract and paragraph 8); and
- Wherein the step of providing said buyer with access includes filtering said aggregated catalog based upon said entitlement information (Flaxer: paragraph 8).
- Receiving a buyer request for said product (Flaxer: abstract); and
- Wherein said step of filtering includes identifying hosted supplier stores offering said product, identifying eligible contracts within said identified hosted supplier stores, retrieving entitlement information from said eligible contracts, and

applying said retrieved entitlement information, wherein said entitlement information includes pricing (Flaxer: paragraph 8).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the method of Haynes to have included entitlement information for buyers including pricing, as taught by Flaxer, in order to allow for personalized pricing by the vendor to maximize profit (Flaxer: abstract).

Referring to claims 10-11,16-17, and 20. Claims 10-11,16-17, and 20 are rejected under the same rationale set forth above. The combination of Haynes and Flaxer discloses systems and mediums containing instructions with limitations similar to those cited in the rejection of claims 4-5.

Response to Arguments

Applicant's arguments filed June 18, 2007 have been fully considered but they are not persuasive. The examiner strongly disagrees with applicant's assertion that burden of initial examination has not been met due to insufficient indication of the relevant disclosure of the prior art. The examiner believes that the specific passages cited above in the 35 USC 102 rejection to Haynes (US 2006/0218052) clearly articulates the relevant disclosure. The cited passages of Haynes are in no way verbose or overly long and it is not necessary to reprint a line by line disclosure of the prior art in the rejection, as the prior art is readily available. The applicant argues that citation of paragraph 18 is insufficient to show that Haynes anticipates the limitations:

"receiving a plurality of supplier catalogs from said plurality of suppliers;" and

aggregating said plurality of supplier catalogs into an aggregated catalog.”

The examiner submits that the above limitations are CLEARLY disclosed as noted:

In another aspect of this invention, there is described a method of **constructing a searchable database that stores at least one catalogue of items that may be bought by at least one buyer and are supplied by at least one supplier** (receiving and aggregating suppliers' catalog).

The examiner also strongly disagrees with applicant's contention that it is part of the examination process to construe meanings for claim terms. Terms within the claims are given their meanings based upon the applicant's specification or when they are not defined within the specification, their broadest reasonable definitions. See at least MPEP 904.01 Analysis of Claims.

904.01 Analysis of Claims

The breadth of the claims in the application should always be carefully noted; that is, the examiner should be fully aware of what the claims do *not* call for, as well as what they do require. During patent examination, the claims are given the broadest reasonable interpretation consistent with the specification. See *In re Morris*, 127 F.3d 1048, 44 USPQ2d 1023 (Fed. Cir. 1997). See MPEP § 2111 - § 2116.01 for case law pertinent to claim analysis.

For example, applicant argues that a database and catalog are not identical because “a catalog is list of items that are accessible by a user, as a list (and) a database, however, is not necessarily accessible by a user, as a list of items.” This argument is refuted on two counts as the examiner can find no disclosure of a “list of items” with applicant's specification and paragraph 18 of Haynes clearly defines the

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searchable database (aggregated catalog) to consist of catalogues of items supplied by **at least one** supplier.

The examiner further disagrees with applicant's contention that Haynes does not teach hosted supplier stores owned by said suppliers. Figure 1 and paragraph 48 of Haynes disclose vendor and supplier sites. Applicant's specification does not specifically define "stores" and "owned" and as such the terms are given their broadest reasonable meanings. It is well known within the art that supplier "stores" are web sites and since the sites (22b) are defined as "vendor sites" ownership is indicated.

Claims 1-3, 6-9, 12-15, and 18-19 are rejected under the rationale above.

Dependent claims 4-5, 10-11, 16-17, and 20 are further rejected under the same rationale as the independent claims they depend upon.

Lastly, the examiner appreciates the applicant's direction to MPEP 706 (II), however, per the rejection above and the rationale set forth in the response to remarks, the claims are not in condition for allowance.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason B. Dunham whose telephone number is 571-272-8109. The examiner can normally be reached on M-F, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JBD
Patent Examiner
8/29/07


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